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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,630	10/01/2001	Jiang Liang	RD-29301	2277

6147 7590 05/24/2002

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EXAMINER

WESSMAN, ANDREW E

ART UNIT	PAPER NUMBER
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1742

8

DATE MAILED: 05/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/682,630

Applicant(s)

LIANG ET AL.

Examiner

Andrew E Wessman

Art Unit

1742

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: Arguments are not persuasive.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-4, 9-15 and 20-34.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: See attached

Response to Arguments

1. Applicant's arguments filed May 21, 2002 have been fully considered but they are not persuasive. The examiner acknowledges the arguments made by the applicant, stating that the term "consisting essentially of" is meant to include only the stated elements and further elements that do not materially change the properties of the alloy. Because even minor amounts of zirconium change the alloy significantly, the claimed alloy could not possibly contain even minor amounts of zirconium.

However, applicant fails to address the examiner's argument presented in paragraph 3 of paper No. 5. This argument states that it has been held that the removal of an element and its function is obvious if the function of the element is not desired. Ex Parte Wu, 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989). In this case, because the function of zirconium being added to the alloy is to increase the strength of the alloy, as taught by Reinacher (see abstract or col. 2, lines 8-12), the removal of zirconium accompanied by a loss of strength in the alloy would have been obvious as long as the resultant loss of strength did in fact occur. Applicant's own disclosure (table 3 and example 2 specifically) shows that such an expected loss of strength does in fact occur. The alloys of the claimed invention would have been obvious in view of the prior art teachings of the function of adding zirconium to noble metal alloys.


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